IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 145 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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KALPESH CHANDRAKANT DAVE

Versus

CADILA PHARMACUTICALS LTD THRO'THE CHAIRMAN

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Appearance:

1. Civil Revision Application No. 145 of 2004

MR PUSHPADATTA VYAS for Petitioner No. 1

MR SHUKLA for MR RAHUL K PANDYA for Respondent No. 1-2

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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/09/2004

ORAL JUDGEMENT

RULE. Mr.Sukla, learned advocate for the respondents, waives service of rule on behalf of the respondents. With the consent of the parties, matter is

taken up for hearing today.

2) During the course of hearing, it was brought to the notice of the Court that the petitioner, through his advocate, has served a notice dated 30th December, 2003, to Mr.Shukla, who is appearing for the company as well to the officers of the company, wherein it is stated that a wrong defence is taken before the trial Court. Having realised the fact that such notice should not have been issued either to the advocate or to the party, Mr.Vyas, learned advocate for the petitioner, on instructions from his client states that he is withdrawing the aforesaid notice and his client, viz., Kalpesh Chandrakant Dave, who is present in the Court, has tendered unconditional apology for issuing such notice to the advocate as well as to the officers of the company. This statement of the petitioner-herein is recorded.

3) Mr.Vyas, learned advocate for the applicant original plaintiff submitted that the applicant is giving up his contention that he is a workman and he will not take any point in connection with industrial dispute. It is also submitted that he will not claim any benefit arising out of the Industrial Disputes' Act or under labour laws.

4) Considering the aforesaid stand taken by the applicant before this Court, Mr.Shukla, learned advocate for the respondents states that the company is giving up its plea regarding want of jurisdiction of the Civil Court.

5) In view above, now the Civil Court will proceed with the suit treating it to be the dispute between the master and servant, which is not governed by industrial law. In view of above, if any consequent amendment in the plaint is required, the applicant is permitted to carry out the same. The trial Court shall now proceed with the main suit on its own merits and in accordance with law.

6) Accordingly, the order impugned in this matter is set aside and matter is sent back to the trial Court for deciding the same. Accordingly, this Civil Revision Application is allowed. Rule is made absolute accordingly. No costs.

(P.B.Majmudar,J.)
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